

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

ALAN CRAIG STOPS,

Cause No. CV 08-049-BLG-RFC-CSO

Plaintiff,

vs.

FINDINGS AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE
TO DISMISS COMPLAINT

JOSEPH BULL TAIL, et. al.,

Defendants.

On September 30, 2008, this Court issued an Order directing Plaintiff to show cause why this matter should not be dismissed for lack of subject matter jurisdiction. (Court's Doc. No. 11).¹ Plaintiff did not respond.

Accordingly, for the reasons set forth in the Court's Order of September 30, 2008, the Court issues the following:

¹Plaintiff's allegations arose out of a custody matter involving Plaintiff's two children. Federal district courts do not have jurisdiction to review the judicial actions of tribal courts, including child custody decisions. See [DeMent v. Oglala Sioux Tribal Court](#), 874 F.2d 510, 514 (8th Cir. 1989); [LaBeau v. Dakota](#), 815 F.Supp. 1074 (W.D.Mich. 1993) citing [Shelifoe v. Dakota](#), 966 F.2d 1454 (6th Cir. 1992) (unpublished disposition); [Sandman v. Dakota](#), 816 F.Supp. 448 (W.D.Mich. 1992).

RECOMMENDATION

1. Plaintiff's Complaint should be **DISMISSED** for lack of subject matter jurisdiction.

2. The Clerk of Court should be directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

3. At all times during the pendency of this action, Plaintiff SHALL IMMEDIATELY ADVISE the Court of any change of address and its effective date. Such notice shall be captioned "NOTICE OF CHANGE OF ADDRESS." The notice shall contain only information pertaining to the change of address and its effective date, the notice should so indicate. The notice shall not include any motions for any other relief. Failure to file a NOTICE OF CHANGE OF ADDRESS may result in the dismissal of the action for failure to prosecute pursuant to [Fed.R.Civ.P. 41\(b\)](#).

NOTICE OF RIGHT TO OBJECT TO FINDINGS & RECOMMENDATION AND CONSEQUENCES OF FAILURE TO OBJECT

Pursuant to [28 U.S.C. § 636\(b\)\(1\)](#), the parties may serve and file written objections to this Findings and Recommendation within ten (10) business days of the date entered as indicated on the Notice of Electronic

Filing. Any such filing should be captioned "Objections to Magistrate Judge's Findings and Recommendation."

A district judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendation. Failure to timely file written objections may bar a de novo determination by the district judge and may waive the right to appeal the District Court's order. [Martinez v. Ylst, 951 F.2d 1153 \(9th Cir. 1991\)](#).

This Recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to [Fed.R.Civ.P. 4\(a\)\(1\)](#), should not be filed until entry of the District Court's final judgment.

DATED this 10th day of February, 2009.

/s/ Carolyn S. Ostby
Carolyn S. Ostby
United States Magistrate Judge